



General Assembly

February Session, 2008

Raised Bill No. 5641

LCO No. 1722

01722_____PD_

Referred to Committee on Planning and Development

Introduced by:
(PD)

AN ACT CONCERNING CONSERVATION DEVELOPMENT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2008*) As used in sections 2 to 4,
2 inclusive, of this act:

3 (1) "Conservation development" means a residential development
4 that concentrates buildings and structures in specific areas of a lot, site
5 or parcel so that the remaining land can be used for recreation, open
6 space or preservation of features or structures with environmental,
7 historical, cultural or other significance;

8 (2) "Conservation development zone" means a zone adopted by a
9 zoning commission pursuant to sections 2 to 4, inclusive, of this act;

10 (3) "Open space" means land or a permanent interest in land that is
11 used for or satisfies one or more of the criteria listed in subsection (b)
12 of section 7-131d of the general statutes; and

13 (4) "Zoning commission" means a municipal agency designated or
14 authorized to exercise zoning powers under chapter 124 of the general
15 statutes or a special act, and includes an agency that exercises both

16 planning and zoning authority.

17 Sec. 2. (NEW) (*Effective October 1, 2008*) (a) Notwithstanding the
18 provisions of a charter or special act, a zoning commission may adopt,
19 as part of the zoning regulations adopted under section 8-2 of the
20 general statutes or any special act, regulations establishing a
21 conservation development zone in accordance with the provisions of
22 this section and sections 3 and 4 of this act. On or after the effective
23 date of regulations adopted by the commission under this section and
24 sections 3 and 4, of this act, the zoning commission shall amend the
25 zoning regulation concerning conservation development in accordance
26 with the provisions of this section and sections 3 and 4 of this act.

27 (b) A conservation development zone shall be an overlay zone and
28 shall satisfy the following requirements:

29 (1) A conservation development for which an application has been
30 filed pursuant to the provisions of subsection (g) of section 8-3 of the
31 2008 supplement to the general statutes shall be an as of right
32 permitted use in such zone and such development shall not be subject
33 to any special permit, special exception, special exemption or other
34 similar discretionary procedures, requirements or standards under the
35 provisions of chapter 124 of the general statutes;

36 (2) The number of housing units per acre in the conservation
37 development zone shall constitute an increase over the housing
38 density of the underlying zone of (A) at least ten per cent if the amount
39 of land set aside as open space is more than twenty-five per cent of the
40 development area; (B) at least twenty per cent if the amount of land set
41 aside is more than thirty-five per cent of the development area; or (C)
42 at least thirty per cent if the amount of land set aside as open space is
43 more than forty-five per cent. The density provided for in this
44 subdivision shall be increased by two per cent if the open space to be
45 set aside is adjacent to other open space or to a highway;

46 (3) The size of lots shall be based on soil characteristics, except as

47 otherwise provided for in this subdivision. If a lot is served by a public
48 water or sewer system or served by an advanced treatment wastewater
49 system, the regulations may authorize the commission to waive the
50 requirements of the zoning regulations, including, but not limited to,
51 requirements for lot size setbacks, lot coverage, building height and
52 road frontage. If a lot is not served by a public water or sewer system
53 or served by an alternative on-site sewage treatment system, such
54 regulations shall contain provisions for lot size, setbacks, lot coverage,
55 building height and road frontage that are necessary to protect the
56 health and safety of the municipality;

57 (4) Open space in a conservation development shall restore,
58 preserve or enhance wildlife habitation or use of the property;

59 (5) The amount of open space the commission may require within a
60 conservation development shall be at least twenty per cent, but not
61 more than fifty per cent, of the land that can be improved excluding:
62 (A) Land already committed to a public use or purpose, whether
63 publicly or privately owned; (B) existing parks, recreation areas and
64 open space that is dedicated to the public or subject to a recorded
65 conservation easement; (C) land otherwise subject to an enforceable
66 restriction on or prohibition of development; (D) wetlands or
67 watercourses as defined in chapter 440 of the general statutes; and (E)
68 vertical slopes too extreme for development and which would yield a
69 profit equivalent to a development on land without a vertical slope;
70 and

71 (6) The open space within the development shall be transferred by
72 easement or conveyance to the municipality or to a nonprofit land
73 holding conservation organization.

74 Sec. 3. (NEW) (*Effective July 1, 2008*) (a) A zoning commission, at the
75 time of and as part of its adoption of regulations for a conservation
76 development zone, may adopt design standards for a conservation
77 development within such zone.

78 (b) Such design standards may (1) ensure that construction within
79 the conservation development zone is complementary to adjacent and
80 neighboring buildings and structures; and (2) address the scale and
81 proportions of buildings; site coverage; alignment, width and grade of
82 streets and sidewalks; type and location of infrastructure; location of
83 building and garage entrances; off-street parking; protection of
84 significant natural site features; location and design of open spaces;
85 signage; and setbacks and buffering from adjacent properties.

86 Sec. 4. (NEW) (*Effective July 1, 2008*) (a) A zoning commission shall
87 prescribe, consistent with the provisions of this section and sections 1
88 and 2 of this act, the form of an application for approval of a
89 conservation development. Receipt and processing of applications
90 shall follow the time periods and procedures of chapter 124 or 126 of
91 the general statutes, as applicable. A zoning commission, or its agent,
92 is authorized, to the extent allowed by the Freedom of Information
93 Act, to conduct one or more preliminary or preapplication planning or
94 workshop meetings with regard to a conservation development zone
95 or development.

96 (b) The regulations in a conservation development zone may require
97 the applicant for approval of a conservation development to pay the
98 cost of reasonable consulting fees to provide peer review of the
99 technical aspects of the application for the benefit of the commission.
100 Such fees shall be held in a separate account and used only for
101 expenses associated with the technical review of the application by
102 consultants who are not otherwise salaried employees of the
103 municipality or the commission, and any surplus remaining, including
104 any interest accrued, shall be returned to the applicant within forty-
105 five days of the completion of such technical review.

106 (c) Conservation development zone regulations may provide for the
107 referral of a site plan or subdivision application for comment to other
108 agencies, boards or commissions of the municipality. If a site plan or
109 subdivision application is referred to another agency, board or

110 commission, such agency, board or commission may provide any
111 comments to the zoning, within the applicable time period for such
112 commission to make a decision on the application.

113 (d) A conservation development shall be approved by the zoning
114 commission subject only to conditions that are necessary to (1) ensure
115 substantial compliance of the proposed development with the
116 requirements of the conservation development zone regulations,
117 design standards, if any, and, if applicable, subdivision regulations,
118 pursuant to section 8-25 of the 2008 supplement to the general statutes,
119 as amended by this act; or (2) ensure compliance with the provisions of
120 any state law or regulations adopted thereunder or local ordinance
121 concerning land use. An application may be denied only on the
122 grounds that: (A) The development does not meet the requirements set
123 forth in the conservation development zone regulations; (B) the
124 applicant failed to submit information and fees required by the
125 regulations and necessary for an adequate and timely review of the
126 design of the development or potential development impacts; or (C)
127 there is no grantee for an easement or conveyance of the open space.

128 (e) The duration and renewal of an approval of a conservation
129 development shall be governed by subsection (i) or (j) of section 8-3 of
130 the 2008 supplement to the general statutes, section 8-26c or section 8-
131 26g of the general statutes, as applicable.

132 Sec. 5. Section 8-25 of the 2008 supplement to the general statutes is
133 amended by adding subsection (d) as follows (*Effective July 1, 2008*):

134 (NEW) (d) Notwithstanding the provisions of a charter or special
135 act, a commission shall amend the subdivision regulations adopted
136 under subsection (a) of this section to provide for conservation
137 development consistent with zoning regulations adopted in the
138 municipality under section 2 of this act. Such subdivision regulations
139 may require the applicant for approval of a conservation development
140 to pay the cost of reasonable consulting fees to provide peer review of
141 the technical aspects of the application for the benefit of the

142 commission.

143 Sec. 6. Section 8-26 of the 2008 supplement to the general statutes is
144 repealed and the following is substituted in lieu thereof (*Effective July*
145 *1, 2008*):

146 (a) All plans for subdivisions and resubdivisions, including
147 subdivisions and resubdivisions in existence but which were not
148 submitted to the commission for required approval, whether or not
149 shown on an existing map or plan or whether or not conveyances have
150 been made of any of the property included in such subdivisions or
151 resubdivisions, shall be submitted to the commission with an
152 application in the form to be prescribed by it. The commission shall
153 have the authority to determine whether the existing division of any
154 land constitutes a subdivision or resubdivision under the provisions of
155 this chapter, provided nothing in this section shall be deemed to
156 authorize the commission to approve any such subdivision or
157 resubdivision which conflicts with applicable zoning regulations. Such
158 regulations may contain provisions whereby the commission may
159 waive certain requirements under the regulations by a three-quarters
160 vote of all the members of the commission in cases where conditions
161 exist which affect the subject land and are not generally applicable to
162 other land in the area, provided that the regulations shall specify the
163 conditions under which a waiver may be considered and shall provide
164 that no waiver shall be granted that would have a significant adverse
165 effect on adjacent property or on public health and safety. The
166 commission shall state upon its records the reasons for which a waiver
167 is granted in each case. The commission may establish a schedule of
168 fees and charge such fees. The amount of the fees shall be sufficient to
169 cover the costs of processing subdivision applications, including, but
170 not limited to, the cost of registered or certified mailings and the
171 publication of notices, and the costs of inspecting subdivision
172 improvements. Any schedule of fees established under this section
173 shall be superseded by fees established by ordinance under section 8-
174 1c. The commission may hold a public hearing regarding any

175 subdivision proposal if, in its judgment, the specific circumstances
176 require such action. No plan of resubdivision shall be acted upon by
177 the commission without a public hearing. Such public hearing shall be
178 held in accordance with the provisions of section 8-7d of the 2008
179 supplement to the general statutes. The commission shall approve,
180 modify and approve, or disapprove any subdivision or resubdivision
181 application or maps and plans submitted therewith, including existing
182 subdivisions or resubdivisions made in violation of this section, within
183 the period of time permitted under section 8-26d. Notice of the
184 decision of the commission shall be published in a newspaper having a
185 substantial circulation in the municipality and addressed by certified
186 mail to any person applying to the commission under this section, by
187 its secretary or clerk, under his signature in any written, printed,
188 typewritten or stamped form, within fifteen days after such decision
189 has been rendered. In any case in which such notice is not published
190 within such fifteen-day period, the person who made such application
191 may provide for the publication of such notice within ten days
192 thereafter. Such notice shall be a simple statement that such
193 application was approved, modified and approved or disapproved,
194 together with the date of such action. The failure of the commission to
195 act thereon shall be considered as an approval, and a certificate to that
196 effect shall be issued by the commission on demand. The grounds for
197 its action shall be stated in the records of the commission. No planning
198 commission shall be required to consider an application for approval
199 of a subdivision plan while another application for subdivision of the
200 same or substantially the same parcel is pending before the
201 commission. For the purposes of this section, an application is not
202 "pending before the commission" if the commission has rendered a
203 decision with respect to such application and such decision has been
204 appealed to the Superior Court. If an application involves land
205 regulated as an inland wetland or watercourse under the provisions of
206 chapter 440, the applicant shall submit an application to the agency
207 responsible for administration of the inland wetlands regulations no
208 later than the day the application is filed for the subdivision or

209 resubdivision. The commission shall, within the period of time
210 established in section 8-7d of the 2008 supplement to the general
211 statutes, accept the filing of and shall process, pursuant to section 8-7d
212 of the 2008 supplement to the general statutes, any subdivision or
213 resubdivision involving land regulated as an inland wetland or
214 watercourse under chapter 440. The commission shall not render a
215 decision until the inland wetlands agency has submitted a report with
216 its final decision to such commission. In making its decision the
217 commission shall consider the report of the inland wetlands agency
218 and if the commission establishes terms and conditions for approval
219 that are not consistent with the final decision of the inland wetlands
220 agency, the commission shall state on the record the reason for such
221 terms and conditions. In making a decision on an application, the
222 commission shall consider information submitted by the applicant
223 under subsection (b) of section 8-25 of the 2008 supplement to the
224 general statutes, as amended by this act, concerning passive solar
225 energy techniques. The provisions of this section shall apply to any
226 municipality which exercises planning power pursuant to any special
227 act.

228 (b) On and after the adoption of subdivision regulations under
229 subsection (d) of section 8-25 of the 2008 supplement to the general
230 statutes, as amended by this act, a conservation development for
231 which an application has been filed pursuant to this section , shall be
232 an as of right permitted use and shall not be subject to any
233 discretionary procedures, requirements or standards under the
234 provisions of chapter 126. The commission shall approve a
235 conservation development subject only to conditions that are necessary
236 to ensure (1) substantial compliance of the proposed development with
237 the requirements of such regulations; or (2) compliance with the
238 provisions of any state law or regulations adopted thereunder or any
239 local ordinance in the municipality concerning land use. An
240 application may be denied only on the grounds that: (A) The
241 development does not meet the requirements set forth in the
242 conservation development regulations; (B) the applicant failed to

243 submit information and fees required by the regulations and necessary
244 for an adequate and timely review of the design of the development or
245 potential development impacts; or (C) there is no grantee for an
246 easement or conveyance of the open space.

247 Sec. 7. Section 16a-32 of the general statutes is repealed and the
248 following is substituted in lieu thereof (*Effective July 1, 2008*):

249 (a) Each revision of the plan of conservation and development shall
250 be initiated by the secretary and shall be undertaken in accordance
251 with the process outlined in this chapter.

252 (b) Without initiating a revision of the plan and after receiving
253 written approval from the committee, the secretary may undertake
254 interim changes in the plan upon the secretary's own initiative or upon
255 application by (1) the chief executive officer of a municipality, with the
256 approval of the legislative body of such municipality, or (2) any owner
257 of real property or any interest therein on which a change is proposed.
258 No application for an interim change from a municipality under
259 subdivision (1) of this subsection may be submitted unless (A) the
260 municipality in which the change is proposed has a plan of
261 conservation and development that has been updated in accordance
262 with section 8-23 of the 2008 supplement to the general statutes, and
263 (B) the application includes evidence, in writing, of the opinion of the
264 planning commission of the municipality regarding the interim
265 change. The secretary shall adopt regulations in accordance with
266 chapter 54 to establish procedures for applications for such interim
267 changes by any person, political subdivision of the state or state
268 agency. Such regulations shall include, but need not be limited to,
269 provisions for interviews and consultations with local planning and
270 zoning commissions or, in those municipalities which have adopted
271 the provisions of chapter 124 but which do not have a zoning
272 commission, the persons designated to exercise zoning powers
273 pursuant to section 8-1, review of local plans of development and
274 public hearings. The secretary shall notify the chief executive officer

275 and the persons exercising planning or zoning powers in any
276 municipality which is the subject of an application for change in the
277 locational guide map and shall notify any members of the General
278 Assembly representing any area which is the subject of such an
279 application. A joint public hearing by the secretary and the committee
280 shall be held in any such municipality if requested by any chief
281 executive officer or planning or zoning official notified by the secretary
282 pursuant to this subsection. The committee shall also hold a hearing in
283 addition to any hearing required to be held in any municipality
284 concerning the locational guide map on any other proposed changes.
285 After such public hearing, the committee shall approve or disapprove
286 the application and notify the secretary of its decision not more than
287 ten days thereafter. In the case of an application to change the
288 development priority classification of an area on the locational guide
289 map to a greater development area priority and the area described in
290 the application includes a conservation development, as defined in
291 section 1 of this act, there shall be a rebuttable presumption that such
292 change is in the best interest of the state. The secretary shall make
293 interim changes in the plan to reflect the approved changes.

294 (c) The secretary shall report annually on or before February
295 fifteenth to the committee progress on the implementation of the plan
296 and the extent to which state actions are in conformity with the plan.

297 (d) Nothing in this section shall be construed to prohibit the
298 committee from initiating a revision of the plan at any time.

299 Sec. 8. (NEW) (*Effective July 1, 2008*) (a) Notwithstanding the
300 provisions of sections 22a-476 to 22a-283, inclusive, of the general
301 statutes, the Commissioner of Environmental Protection shall set aside
302 in each fiscal year not less than five per cent of the funding available
303 for grants from the water pollution control state account, established
304 pursuant to subsection (a) of section 22a-477 of the general statutes.
305 Such amount shall be used for grants to plan and construct alternative
306 on-site sewage treatment systems in conservation development zones

307 established pursuant to section 2 of this act. For purposes of this
308 section, "alternative on-site sewage treatment system" means a sewage
309 treatment system serving one or more buildings on one or more
310 parcels of property that utilizes a method of treatment other than a
311 subsurface sewage disposal system and that involves a discharge of
312 domestic sewage to the groundwaters of the state.

313 (b) The commissioner shall adopt regulations, in accordance with
314 the provisions of chapter 54 of the general statutes, to implement the
315 provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2008</i>	New section
Sec. 2	<i>October 1, 2008</i>	New section
Sec. 3	<i>July 1, 2008</i>	New section
Sec. 4	<i>July 1, 2008</i>	New section
Sec. 5	<i>July 1, 2008</i>	8-25
Sec. 6	<i>July 1, 2008</i>	8-26
Sec. 7	<i>July 1, 2008</i>	16a-32
Sec. 8	<i>July 1, 2008</i>	New section

Statement of Purpose:

To promote smart growth by authorizing municipalities to establish conservation development zones.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]